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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
1998 Biennial Regulatory Review – Repeal of Part 62 of the Commission's Rules	)	CC Docket No. 98-195

To: The Commission

COMMENTS OF GTE SERVICE CORPORATION

GTE Service Corporation and its affiliated operating companies[1] (collectively, "GTE"), by its attorneys, hereby submits its comments on the *Notice of Proposed Rulemaking* in the above-referenced proceeding.[2] As detailed below, GTE fully supports the Commission's tentative conclusion to eliminate Part 62 of its rules governing interlocking directorates and to forbear from applying Section 212 of the Communications Act[3] for all carriers in every product market. Because of the presence of other statutory protections and increased competition in virtually all sectors of the telecommunications marketplace, such

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[1] These companies include: GTE Alaska, Incorporated; GTE Arkansas Incorporated; GTE California Incorporated; GTE Florida Incorporated; GTE Hawaiian Telephone Company Incorporated; The Micronesian Telecommunications Corporation; GTE Midwest Incorporated; GTE North Incorporated; GTE Northwest Incorporated; GTE South Incorporated; GTE Southwest Incorporated; Contel of Minnesota, Inc.; Contel of the South, Inc.; and GTE Communications Corporation.

[2] *In the Matter of 1998 Biennial Regulatory Review – Repeal of Part 62 of the Commission's Rules*, Notice of Proposed Rulemaking, FCC 98-294, CC Docket No. 98-195 (rel. Nov. 17, 1998) ("*Notice*").

[3] 47 U.S.C. § 212.

provisions are no longer necessary to protect consumers or to otherwise serve the public interest. Accordingly, Sections 10 and 11 of the Act demand that these provisions be repealed and/or forborne.[4]

I. THE PART 62 RULES GOVERNING INTERLOCKING DIRECTORATES ARE NOT NECESSARY TO THE PUBLIC INTEREST

Section 11 of the Communications Act mandates that the Commission "repeal or modify any regulation it determines to be no longer necessary in the public interest."[5] GTE strongly agrees with the *Notice's* tentative conclusion that the Part 62 rules governing interlocking directorates meet this standard and thus must be repealed.

Most significantly, the telecommunications marketplace has changed considerably since these provisions were adopted. It is undeniable that there is significantly more competition in virtually every sector of the industry. GTE accordingly agrees with the Commission that "the harm the rule sought to prevent – protecting against anti-competitive behavior that might result from a market devoid from competition – no longer exists."[6] Moreover, in those markets lacking full competition, other provisions of Title II are sufficient to deter anti-competitive behavior. This conclusion appears to be supported by the fact that,

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4 *See* 47 U.S.C. §§ 160, 161.

5 47 U.S.C. § 161(b).

6 *Notice* at ¶ 10.

since the Commission amended its rules in 1986, no proposed interlocking directorate has met opposition from the public.[7]

In addition, as the *Notice* states, these provisions are redundant of other laws that currently protect against anti-competitive behavior that may result from interlocking directorates. The Commission identifies various provisions of Title II of the Communications Act, as well as the antitrust laws, as adequately guarding against a proposed interlocking directorate that could harm telecommunications providers or consumers. Among these are Section 201(b), which requires that all charges, practices, classifications, and regulations in connection with a communications service be just and reasonable,[8] and Section 8 of the Clayton Act, which prohibits a person from serving as an officer or director of two competing corporations above a certain size.[9]

Finally, the public interest would clearly be served by repealing the interlocking directorate provisions of Part 62. Currently, carriers seeking FCC permission to have interlocking directorates incur costs in preparing and prosecuting such filings, not to mention substantial delays before they can implement a potentially beneficial restructuring. Commission resources better used for other purposes are also spent in processing such filings. The elimination of these unnecessary regulations, however, would prevent needless

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7 *See id.* at ¶¶ 9, 11.

8 47 U.S.C. § 201(b).

9 *See* 15 U.S.C. § 19.

expenditure of scarce Commission resources, increase administrative efficiency, and free competitive providers of burdensome regulation.

II. FORBEARANCE FROM APPLYING SECTION 212 WOULD FOSTER A MORE COMPETITIVE MARKET, PROTECT CONSUMER WELFARE, AND PROMOTE THE PUBLIC INTEREST

Section 10 of the Communications Act directs the Commission to forbear from applying any regulation or provision of the Act if the agency determines that (1) enforcement of the provision is not necessary to ensure that a carrier's charges, practices, classifications or regulations are just and reasonable and not unjustly or unreasonably discriminatory; (2) enforcement is not necessary to protect consumers; and (3) forbearance would be consistent with the public interest.[10] The limitation on interlocking directorates contained in Section 212 clearly satisfies this three-pronged test. The Commission accordingly must forbear from enforcing this provision.

As an initial matter, enforcement of Section 212 is not necessary to ensure just and reasonable charges and practices. The highly competitive nature of most sectors of the communications marketplace will ensure that a carrier's charges and practices are just and reasonable and not unjustly or unreasonably discriminatory. While the *Notice* expresses concern that not all markets may yet be fully competitive, the Commission itself notes that in such areas adequate protections against such anti-competitive behavior are available

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[10] 47 U.S.C. § 160.

in the form of a variety of other statutory provisions[11] as well as the administrative complaint process. As such, the requirements of Section 212 are not needed in *any* market to ensure just and reasonable practices. This conclusion is further supported by the limited number of interlock filings made during the last several years and the lack of opposition they have triggered.

Second, enforcement of Section 212 is not necessary for the protection of consumers. GTE agrees with the Commission that "interlocking directorates rarely, if ever, raise consumer concerns."[12] As suggested above, this is borne out by the total lack of any opposition to proposed interlocking positions in the past. In addition, the Commission's various enforcement powers are available to protect consumers should any adverse effect occur.

Finally, it is apparent that forbearance of Section 212 is in the public interest. Forbearance will promote competitive market conditions among providers of telecommunications services by relieving them of the regulatory burden and legal costs that arise from the filing, reporting, and authorization requirements relating to interlocking directorates. Thus, forbearance will enable telecommunications providers to respond more quickly to competition. In addition, forbearance will conserve the Commission's scarce administrative resources and permit the agency to focus on more pressing issues.

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[11] *Notice* at ¶ 15. Among these are Sections 201(b), 272(b)(3) and 274(b)(5)(a) of the Communications Act and Section 8 of the Clayton Act.

[12] *See Notice* at ¶ 16.

III. CONCLUSION

For the foregoing reasons, GTE strongly endorses the Commission's proposal to eliminate Part 62 of its rules and to forbear from applying Section 212 of the Communications Act for all carriers in every product market. Given the existence of other laws and regulations that would prevent anti-competitive behavior, as well as the increasingly competitive nature of virtually all sectors of the telecommunications market, these requirements are no longer necessary to the public interest. They must accordingly be eliminated and/or forborne, as required by Sections 10 and 11 of the Communications Act.

Respectfully submitted,

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